

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Expanding the Economic and Innovation	)	Docket No. 12-268
Opportunities of Spectrum Through	)	
Incentive Auctions	)	

**SUPPLEMENTAL COMMENTS OF CIT GROUP INC.**

CIT Group Inc. (NYSE: CIT) respectfully submits limited comments in response to the Wireless Telecommunications Bureau's public notice seeking to supplement the record in the captioned proceeding.<sup>1</sup>

**Background**

As stated in comments and reply comments previously submitted in this proceeding, CIT is a leading provider of financing and advisory services to small businesses and middle market companies. It is a bank holding company, and its principal bank subsidiary is CIT Bank, a Utah state bank. CIT currently has more than \$33 Billion in financing and leasing assets. For almost a quarter century, what is now CIT's Communications, Media and Entertainment Group ("CME") has been a leading middle-market lender to both the broadcast and telecommunications sectors of the communications industry. CIT's current loan portfolio includes television stations that are possible candidates for participation in the reverse auction, and it is likely that CIT also will be called upon to provide future debt financing, both for relocating television

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<sup>1</sup> In the Matter of Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, *Wireless Telecommunications Bureau Seeks to Supplement the Record on the 600 MHz Band Plan*, DA 13-1157 (released May 17, 2013) ("Supplemental Notice").

stations and for bidders in the forward auction. To date, CIT has been the only financial services entity to submit comments in response to the notice of proposed rulemaking initiating this proceeding.<sup>2</sup>

CIT believes the band plans proposed in the Supplemental Notice have substantial implications for the financial success of the incentive auction, and for the private sector financing of the television relocations, the broadband system build-outs, and the future television and broadband operations anticipated by Congress and the Commission. And, as the only financial services commenter of record, CIT believes it is incumbent upon it to make sure the Commission is aware of those implications. CIT therefore appreciates the opportunity to provide these limited supplemental comments regarding financial considerations that other commenters are not likely to address, but which should be important factors in the Commission's adoption of a band plan for the 600 MHz spectrum to be offered in the first ever incentive auction.

### **Comments**

In anticipation of the incentive auction, television stations and forward auction bidders will be developing auction strategies as critical elements of their overall business plans and financial projections. The plans and projections of forward auction bidders, in particular, will need to take into account any negative factors presented by the specific band plan ultimately adopted by the Commission. Negative factors may include higher equipment costs, delays in being able to initiate revenue generating service, and marketing obstacles. Such factors have negative impacts on both an investor's projected return on its equity investment, and a lender's evaluation of a

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<sup>2</sup> In the Matter of Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, *Notice of Proposed Rulemaking*, 27 FCC Rcd. 12357 (2012) ("NPRM").

prospective borrower's ability to repay debt. To the extent such projections and evaluations are adversely impacted by negative factors, they will result in bidders having available reduced amounts of equity and debt financing to apply to auction bids, thereby reducing both the gross and net amounts the Commission can expect to obtain through the incentive auction process.

CIT addresses below certain technical factors in the band plans proposed by the Supplemental Notice that almost certainly will have negative implications for the ability of forward auction bidders to obtain optimal amounts of equity and debt financing. As those factors can be obviated or mitigated through the adoption of the cross-industry consensus "Down from 51" band plan countered by the Supplemental Notice, CIT also suggests that adoption of such a plan is likely to translate into increased private funding of forward auction bidders. Further, to the extent bidders will not need to preserve financial resources to meet other costs, there will be more capital available to expend on spectrum acquisition bidding. And, increased bidding expenditures can only increase the likelihood that the incentive auction will be the financial success hoped for by the Congress and the Commission.

It should be noted that these supplemental comments do not attempt to address any procedural issues (*e.g.*, Administrative Procedure Act) presented by the Supplemental Notice. As Commissioner Pai has called attention to those issues, CIT is confident they will receive full and appropriate consideration by the Commission.<sup>3</sup>

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<sup>3</sup> Statement of Commissioner Ajit Pai on the Public Notice of the Wireless Telecommunications Bureau to Supplement the Record on the 600 MHz Band Plan, Released May 17, 2013.

It also should be noted that, although CIT is providing financial perspectives based on technical analyses of various band proposals, CIT does not purport to possess the expertise to perform such technical analyses. Instead, CIT has reviewed, and now relies upon the technical analyses presented by the NPRM and the Supplemental Notice, and by other comments filed in this proceeding. As more specifically referenced below, CIT has relied especially upon the clear and compelling docketed submissions of Qualcomm Incorporated ("Qualcomm").<sup>4</sup> CIT believes its reliance on those comments and reply comments is fully justified in light of Qualcomm's generally recognized technical expertise with regard to spectrum matters.

### **Spectrum Utilization**

The Supplemental Notice proposes band plans that emphasize "flexibility" and the availability for auction of a maximum amount of spectrum. Most of those band plans require the inclusion of spectrum below TV Channel 37.

Inclusion of spectrum below Channel 37 in a 600 MHz band plan is sub-optimal because it will "require a large passband that cannot possibly be supported via a single antenna system."<sup>5</sup> Inclusion of such spectrum also will require the reconfiguration of today's smartphones and tablets so as to accommodate "incorporation of additional filters, duplexers, tuners, antennas, and switches."<sup>6</sup> All of these accommodations would occasion additional, and otherwise unnecessary, costs.

CIT is concerned about the additional costs associated with accommodating spectrum below Channel 37 in a band plan. CIT also is concerned that the flexibility

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<sup>4</sup> *Comments of Qualcomm Incorporated*, filed January 25, 2013 ("Qualcomm Comments"), and *Reply Comments of Qualcomm Incorporated*, filed March 12, 2013 ("Qualcomm Reply").

<sup>5</sup> Qualcomm Comments at 5.

<sup>6</sup> *Id.* at 22.

required by the plans proposed by the Supplemental Notice will compromise the generally recognized need to “provide 5 MHz spectrum blocks that ‘are as similar and technically interchangeable as possible to allow for enhanced substitutability across blocks.’”<sup>7</sup> These factors almost certainly would make any such band plan less attractive to investors and lenders, and probably would reduce the amount of capital available to be bid in the forward auction.<sup>8</sup>

While recognizing that part of the incentive for expanding the band plan is to provide more spectrum for auction in the hope it will increase auction proceeds, CIT believes any band plan that includes spectrum below Channel 37 will actually result in the reduction of the band’s overall value, and an overall diminution of auction proceeds, because of the added costs and technical difficulties of implementing that band plan.

Instead of adopting one of the expansive band plans proposed by the Supplemental Notice, the Commission would do well to keep in mind the advice of designer/architect Ludwig Mies Van Der Rohe, who famously declared that “sometimes, less is more.”

### **Equipment Availability**

Qualcomm has expressed its concern “with any [band] plan that is likely to increase the size, cost, and battery demands of mobile devices that include the 600 MHz band because the devices will require unneeded additional antenna systems, and/or additional duplexers, filters, and switches to the extent they also support 700

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<sup>7</sup> Qualcomm Comments at 5, citing *NPRM* at ¶ 152.

<sup>8</sup> CIT recognizes that, unless the Commission can resolve the border issues associated with a 600 MHz broadband plan, there will need to be some band plan flexibility in certain geographic areas. CIT believes those exceptions should be dealt with on *ad hoc* bases, but not allowed to compromise the overall integrity of a ubiquitous, nationwide band plan.

MHz, cellular, PCS and positioning bands.”<sup>9</sup> Not only would such requirements trigger concerns over component costs and equipment sizes, but also would raise serious questions as to the availability of the requisite technology. Qualcomm points out that sub-optimal band plans “may require technology that does not exist today and is not under development.”<sup>10</sup>

If there is any investor or lender concern as to the timely availability of technology necessary for the initiation of revenue service, that concern will have a detrimental effect on the availability of capital, with a commensurate impact on the financial success of the incentive auction.

### **Marketability**

One factor that will be critical to the success of the 600 MHz broadband service envisioned by this proceeding will be consumer acceptance of, and demand for, the equipment and applications associated with that service. Given the quality and convenience of the multiband mobile devices and services available today, potential customers cannot be expected to accept anything that is not at least equivalent in all respects.

CIT is particularly concerned that a band plan including spectrum below Channel 37 would require present device configurations to be increased in size in order to accommodate the additional components discussed above. There also would be a commensurate increase in consumer equipment costs. Even with the promise of less spectrum congestion, customer migration to, or addition of, the new 600 MHz service would be impeded by considerations as to equipment configuration and cost.

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<sup>9</sup> Qualcomm Reply at 2.

<sup>10</sup> *Id.*

Any need for service providers to underwrite or absorb all or part of the increased cost of consumer devices would have an adverse impact on their financial projections, potentially resulting in a reduction in the availability of equity and debt financing. In addition, the adverse impact on financial projections could add to an overall perception that the band plan has been made costly and unwieldy through reliance on the theoretical, at the expense of the practical.

### **Conclusion**

The Commission's incentive auction plan is audacious in scope, creativity and complexity. So much so that it may be on the verge of becoming incomprehensible to many of those whom the Commission should view as stakeholders. The Supplemental Notice, with its preference for the theoretical over the practical, settles nothing, but only adds to the unknowns.

CIT urges the Commission to eschew complexity and flexibility in favor of simplicity and consistency. It should reject any band plans that rely on spectrum below Channel 37, and instead, adopt a relatively simple "Down from 51" band plan that can be implemented utilizing present technology, and without undue cost.

Not only will such a relatively simple band plan present the highest value at auction, it also will enjoy the benefit of reduced implementation costs; savings that will both attract capital and be available for bidders to use in the forward auction. Ultimately, making the maximum amount of capital available for use at auction will be the key to the financial success of the incentive auction, and will redound to the benefit of all auction participants, including the Commission, television stations and forward bidders.

Respectfully submitted,



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